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To: "Rules\_Comments@ao.uscourts.gov"  
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cc:

Subject: Opposition to the proposed new FRAP 32.1

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03-AP-262

The purpose of this message is to register my respectful opposition to the proposed new FRAP 32.1 that would require circuit courts of appeals to permit citation of their "unpublished" dispositions.

I have been practicing law in the Ninth Circuit for more than 27 years. Having knowledge of the caseload in that circuit, there would appear to be no practical way to ensure that all dispositions received the judicial scrutiny and care critical to pronouncements carrying the imprimatur of a circuit court of appeals. In view of that practical reality, the publication of "unsupervised" dispositions would lead to inevitable confusion as to the law in the circuit, a dilution of the importance of true judicial opinions, and an unfortunate search by advocates in every disposition for off hand points that could advance their cause. In short, one can envision numerous unintended consequences from this proposed amendment.

At an absolute minimum, I believe that the decision whether to permit citation of unpublished dispositions should be a matter left to the discretion of each individual circuit.

Respectfully submitted.

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